GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:1942
ANSWERED ON:15.03.2002
SYSTEM FOR LEVY EXCISE CUSTOMS DUTY
SHEESH RAM SINGH RAVI

Will the Minister of FINANCE be pleased to state:

(a) Whether the Supreme Court in the case of M/s Bombay TyreInternational and MRF held in October 1983 and [1995(77)ELT 433] respectively that after sale service, being part of selling expenses etc. should be included in the assessable value as these expenses promote marketability of the product and thus enter into its value;

(b) If so, whether some of the Commissionerate of Central Exciseand Customs have not been including such charges in the assessable value resulting into short levy of duty of crores of rupees;

(c) If so, how much loss has thus been caused to the State by the Commissionerates of Customs and Central Excise, Commissionerate- wise in each of the last three years; and

(d) the measures taken to tone up the working of those Commissionerates and to realise the loss of revenue so suffered by the State?

Answer

MINISTER OF STATE (REVENUE) IN THE MINISTRY OF FINANCE (SHRI GINGEE N. RAMACHANDRAN)

(a) Yes Sir, based on these two Supreme Court decisions the Central Board of Excise & Customs have issued Circular No.355/71/97-CX.Dated 19.11.97 and No.435/1/99-CX.dated 12.1.99 clarifying that cost of after sales service, being incurred on behalf of the manufacturer would form part of the assessable value of the goods. This interpretation has however been challenged by a number of assesses, subsequently, before the Supreme Court and in the 13 cases where the decision of Supreme Court have been received, it has inter-alia been held that if the dealings between the manufacturer and the dealer are on principal to principal basis and no amounts are received by the manufacturer from the dealer in connection with the after sales service, the expenses incurred by the dealer towards after sales service, would not form a part of the assessable value.

(b),(c)&(d) Under Central Excise Law and procedure, assesseesthemselves determine the assessable value and pay the duty. However, the details of the cases detected in audit of such units or through anti evasion action of the department, in respect of this issue are being collected and will be laid on the table of the House.